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09/800,368	03/06/2001	Jeffrey D. Irwin	14060/257219	3292

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EXAMINER

MRUK, BRIAN P

ART UNIT

PAPER NUMBER

1751

13

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n No.

09/800,368

Applicant(s)

IRWIN ET AL.

Examiner

Brian P Mruk

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 6-35 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36 is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 13.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1-5 and 36, in Paper No. 12 is acknowledged. The traversal is on the ground(s) that the examiner has failed to demonstrate that the inventions are independent. This is not found persuasive because the inventions of Groups II-IV are drawn to distinct methods for preparing a moisture barrier fabric, which each require separate and distinct method steps that are not required in claims 1-5 (i.e. Group I). Furthermore, the examiner makes of record that the indication of claim 36 as a "linking claim" by the former Examiner of record is not proper according to the guidelines of MPEP 809.03. Therefore, since claim 36 has been placed in Group I, the examiner acknowledges applicant's election of Group I, claims 1-5 and 36, and holds claims 6-35 as nonelected.

The requirement is still deemed proper and is therefore made FINAL.

2. This application contains claims 6-35 drawn to an invention nonelected with traverse in Paper No. 12. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 102***

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Moler, U.S. Patent No. 2,991,536.

Moler, U.S. Patent No. 2,991,536, discloses a process for producing a felted fabric comprising needling a woven fabric with a needle having a barb, such that the needle and fabric are in a substantially fixed lateral relationship during penetration (see col. 1, lines 10-53), per the requirements of the instant invention. Specifically, note Examples 1-9. Therefore, instant claims 1-3 are anticipated by Moler, U.S. Patent No. 2,991,536.

5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Foster, U.S. Patent No. 4,309,800.

Foster, U.S. Patent No. 4,309,800, discloses a felting needle for woven fabrics comprising a needle with a barb that has a barb angle of 20 degrees (see abstract; col. 1, lines 37-62 7 col. 3, lines 63-66), per the requirements of the instant invention. It is further taught by Foster that the needle and barb are used to penetrate a fiber without forming needle marks and craters (see col. 4, lines 9-44), per the requirements of the

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instant invention. Therefore, instant claims 1-5 are anticipated by Foster, U.S. Patent No. 4,309,800.

6. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Duval et al, U.S. Patent No. 5,792,715.

Duval et al, U.S. Patent No. 5,792,715, discloses a method of making a fibrous substrate comprising needling a woven fibrous substrate with several barbed needles which are moved vertically to cause the needles to penetrate into the fibrous layer (see abstract; col. 1, lines 30-40 & col. 3, lines 50-60), per the requirements of the instant invention. Therefore, instant claims 1-3 and 5 are anticipated by Duval et al, U.S. Patent No. 5,792,715.

***Allowable Subject Matter***

7. Claim 36 is allowable over the prior art of record, since the prior art does not teach or suggest in general a process for preparing a fabric comprising needling the fabric with a needle barb, followed by contacting the needled fabric with a washing solution comprising a detergent and sodium carbonate, followed by applying an aqueous latex emulsion of an acrylic-polyurethane copolymer, and immersing the fabric in a treatment solution comprising a fluorochemical and a polyurethane, per the requirements of instant claim 36.

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (Before Final) and (703) 872-9311 (After Final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

BPM

Brian Mruk  
May 28, 2003

*Brian P. Mruk*

Brian P. Mruk  
Patent Examiner  
Tech Center 1700